

MODEL ORDINANCE On Farm Direct Marketing

Prepared by American Farmland Trust for the
Burlington County Farmland Preservation Program,
administered by the Burlington County Agriculture Development Board

BE IT ORDAINED by the Township Committee of the Township of [*municipality*], in the County of Burlington and the State of New Jersey, that Land Use Ordinances of the Township of [*municipality*] be amended and supplemented as follows for every zone where agriculture is a permitted use and/or for residential zones as provided for in Section 4.

Section 1. Purpose

The purpose of the ordinance is to:

- A. Support the economic viability of commercial farms;
- B. Encourage opportunities for farmers to sell their products directly to consumers;
- C. Recognize the importance of on farm direct marketing to commercial farms;
- D. Encourage the development of viable outlets for locally grown agricultural products;
- E. Increase residents' access to fresh and healthy food grown by local producers;
- F. Ensure marketing takes place in an orderly fashion to safeguard public health and safety; and
- G. Implement the municipal farmland preservation element of the master plan, which contains goals related to supporting agriculture and improving agricultural economic viability.

Section 2. Statutory Authority

The municipality of [*municipality*] is empowered to regulate land uses under the provisions of the New Jersey Municipal Land Use Law, N.J.S.A 40:55D-1 et seq., which authorizes each municipality to plan and regulate land use in order to protect public health, safety and welfare by protecting agricultural land to perpetuate the industry of agriculture.

Section 3. Definitions

As used in this ordinance, the following words shall have the following meanings:

“Agricultural products” includes horticultural, viticultural, floricultural, forestry, dairy, livestock, fur-bearing animals, poultry, bee and any farm products, including fresh and salt water food products. [N.J.S.A. 4:13-1]

“Agricultural output” includes agricultural products and value-added items from those agricultural products.

“Commercial farm” means:

- A. A farm management unit of no less than 5 acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.; or
- B. A farm management unit less than 5 acres, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.

“Community supported agriculture (CSA)” means the retail sale of agricultural products to customers through a subscription paid in money or labor, or a combination thereof.

“Farm management unit” means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

“Farm market” means a freestanding permanent structure that is larger than a farm stand but no larger than [*3,000 square feet or 5,000 square feet**] in a dual use agricultural building, not including outdoor marketing areas or displays, for the wholesale or retail marketing of the agricultural output of a commercial farm. Portions of supermarkets, convenience stores, restaurants or other establishments that coincidentally sell agricultural products are not considered farm markets.

“Farm stand” means a freestanding temporary structure no larger than [*200 square feet[†]*], not including outdoor marketing areas for the retail sale of agricultural output of a commercial farm, except as otherwise provided by Section 4 of this ordinance. Portions of supermarkets, convenience stores, restaurants or other establishments that coincidentally sell agricultural products are not considered farm stands.

“Pick-Your-Own (PYO) operation” means a direct marketing alternative wherein retail or wholesale customers are invited onto a commercial farm in order to harvest agricultural products.

* Recommended limit is 3,000 square feet for a freestanding permanent structure and 5,000 square feet for a dual use agricultural building. The municipality can propose alternate thresholds after consultation with the Agricultural Advisory Committee (AAC) or the County Agricultural Development Board (CADB), if no local AAC has been established.

[†] Recommended limit is 200 square feet. The municipality can propose an alternate threshold after consultation with the Agricultural Advisory Committee (AAC) or the County Agricultural Development Board (CADB), if no local AAC has been established.

Section 4. Accessory Uses and Structures to a Residential Use

- A. Farm stands no greater than [50 square feet[✕]] that market agricultural products grown on the property where the farm stand is located provided that production of the agricultural products is in conformance with all other applicable standards for the residential zone.

Section 5. Accessory Uses and Structures of a Commercial Farm for Direct Marketing

- A. Farm markets;
- B. Farm stands;
- C. Community supported agriculture and associated structures to distribute CSA shares;
- D. Pick-Your-Own operations and associated structures to facilitate transactions and provide customers with tools and equipment; and
- E. Events and activities in existing buildings provided that they market the agricultural output of the commercial farm.

Section 6. Setback Requirements for Accessory Use Structures

- A. Farm markets:
 - 1. Front Yard – 50 feet
 - 2. Side Yard – 100 feet
 - 3. Rear Yard – 50 feet
- B. Farm stands, CSA distribution areas and PYO pay stations:
 - 1. Front Yard – 25 feet
 - 2. Side Yard – 50 feet
 - 3. Rear Yard – 50 feet
- C. Existing structures are exempt from setback requirements
- D. Operations conducting more than one type of direct marketing activity in an accessory use structure shall comply with the largest applicable setback requirements.

[✕] Recommended limit is 50 square feet. The municipality can propose an alternate threshold after consultation with the Agricultural Advisory Committee (AAC) or the County Agricultural Development Board (CADB), if no local AAC has been established.

Section 7. Performance Standards for Farm Markets

- A. At least 90 percent of the indoor and outdoor marketing area consists of agricultural products and value-added items from those agricultural products. Landscaping products, including, but not limited to, stone, soil, and concrete are not considered agricultural products;
- B. At least 51 percent of the annual gross receipts shall be generated from sales of agricultural output of the commercial farm operating the farm market or at least 35 percent of the annual gross sales of the retail farm market shall be generated from sales of agricultural products grown by the commercial farm operating the market if an additional 35 percent of annual gross sales are generated from New Jersey grown and raised products;
- C. Landscaping products, including, but not limited to, stone, soil, and concrete are not considered agricultural products. Sales of alcoholic beverages not made from the agricultural output of the commercial farm, fuel and related products, tobacco products and lottery tickets are prohibited;
- D. Limited site plan review is required for farm markets. Certain site plan standards will be eliminated based on the recommendation of the AAC or the CADB, if no AAC has been established. Only site plan standards related to public health and safety will be required and if necessary, County Planning Board approval. Farm markets may be considered major non-developments for the purposes of stormwater management depending on the details of the development application.
- E. If the farm market is on a County Road and requires access, a road access permit may be required from the County Planning Board or the NJ Department of Transportation.

Section 8. Performance Standards for Farm Stands, CSA and PYO Distribution Structures

- A. At least 90 percent of the indoor and outdoor marketing area consists of agricultural products. Landscaping products such as stone, soil, mulch, and concrete are not considered agricultural products;
- B. At least 51 percent of the annual gross receipts shall be generated from sales of agricultural output of the commercial farm operating the farm market or at least 35 percent of the annual gross sales of the retail farm market shall be generated from sales of agricultural products grown by the commercial farm operating the market if an additional 35 percent of annual gross sales are generated from New Jersey grown and raised products;
- C. Sales of alcoholic beverages made from agricultural products grown on the commercial farm are regulated by state and local law. Sales of all other alcoholic beverages, fuel and related products, tobacco products and lottery tickets are prohibited;
- D. Adequate off-street parking is required;

- E. Site plan review is not required except for ingress and egress issues related to access to a Township road. These structures will not be considered major non-residential developments for the purposes of stormwater management.
- F. If the farm stand, CSA or PYO distribution structure is on a County Road and requires access, a road access permit may be required from the County Planning Board or the NJ Department of Transportation.
- G. Operations conducting more than one type of direct marketing activity must comply with the most stringent, applicable performance standards.

Section 9. Signage

Permanent, temporary and directional signs shall be permitted to promote on farm direct marketing subject to the following conditions:

- A. Free-standing, permanent on-site business or advertising signs on the property with the following conditions:
 - 1. Signs must be setback 20 feet from the property line;
 - 2. The total area of such signs must not exceed 20 square feet per side; and
 - 3. The maximum height to the top of the sign shall not to exceed 15 feet from ground level.
- B. Temporary signs with the following conditions:
 - 1. Each sign shall not exceed 8 square feet;
 - 2. If erected at road intersections, permission of the property owner or easement holder on whose property the sign is to be located has been granted; and
 - 3. The sign shall not obstruct visibility of vehicles at intersections.

Section 10. Compliance with Pinelands Commission Standards

If any of the standards conflict with the requirements of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50) they are not applicable. Additional requirements and standards may apply if the commercial farm in question is within the jurisdiction of the NJ Pinelands Commission.

Section 11. Adoption

Upon adoption this ordinance will be incorporated into and become part of the relevant sections of the zoning code of the Township of [*municipality*].

Section 12: Effective Date

This ordinance shall take effect after final adoption and publication according to the State of New Jersey.